

3.0.0 CARETAKER

3.1.0 Relationships

3.1.1 Adult

An adult is anyone age 18 or older.

3.1.2 Child

A child is a person who is someone's natural or adoptive son or daughter. A child may be of any age, and may be either married or unmarried.

3.1.3 18-Year-Old

An 18-year-old is non-financially eligible for MA. Marital status has no effect on his/her nonfinancial eligibility. Nor is it necessary that the 18-year-old be under the care (3.3.0) of a caretaker (3.2.0) or be classified as a dependent 18-year-old (4.6.0).

3.1.4 Minor

A minor is a person less than age 18. A minor is nonfinancially eligible for MA. Marital status has no effect on his/her nonfinancial eligibility. Nor is it necessary that the minor be under the care (3.3.0) of a caretaker (3.2.0).

3.1.5 Child-In-Common

A child-in-common is a minor or never married dependent 18-year-old living in a household with both of his/her natural and/or adoptive parents.

3.1.6 Stepchild

A stepchild is a minor or never married dependent 18-year-old living in a household with the spouse of one of his/her parents. That spouse is not his/her other natural parent.

A stepchild remains a stepchild even if his/her natural parent is not in the household, as long as the stepparent is still in the household.

3.1.7 Non-Legally Responsible Relative (NLRR) Child

A non-legally responsible relative (NLRR) child has no relatives in the household who are legally responsible for him/her. S/he meets these two conditions:

1. S/he does not a parent or stepparent in the household.
2. The primary person, the primary person's spouse, or a nonmarital parent is his/her caretaker.

A stepchild is not a NLRR child.

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3.1.8 Full Sibling	A person's brother or sister, with whom s/he shares both parents, is a full sibling.
3.1.9 Half Sibling	A person's brother or sister, with whom s/he shares only one parent, is his/her half sibling.
3.1.10 Legally Responsible Relative (LRR)	A legally responsible relative (LRR) is a person who is legally responsible for another person. Spouses are legally responsible for each other. Parents are legally responsible for their minor children.
3.1.11 Spouse	A spouse is that person recognized by Wisconsin law as another person's legal husband or wife. Wisconsin does not recognize common law marriage.
3.1.12 Parent	A parent is any natural or legally adoptive mother or father. A parent can be any age. There can be more than one parent of a certain gender in a household.
3.1.13 Stepparent	<p>A stepparent is the spouse of a child's parent by a later marriage.</p> <p>Once s/he becomes a stepparent through marriage, s/he remains a stepparent, even if his/her spouse is absent from the household due to death, divorce, or separation.</p>
3.1.14 Non-Marital Co-Parent (NMCP)	<p>A non-marital co-parent (NMCP) parent of a child-in-common, in a household where both of the following are true:</p> <ol style="list-style-type: none">1. S/he lives with, but is not married to the primary person, and2. The primary person is the other parent of the child-in-common.
3.1.15 Paternity 3.1.15.1 Claimed Father	<p>, claimed</p> <p>A claimed father is someone who claims to be the father, but Paternity has not been established. A claimed father is not the father for MA eligibility purposes and should be referred to the Child Support Agency (CSA).</p>

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3.1.15.2 Acknowledged Father

An acknowledged father is someone that has not been adjudicated, but fits one of the following criteria:

- Filed paternity papers, **or**
- Has his name on the birth certificate.

An acknowledged father is the father for MA eligibility purposes. Do not refer acknowledged fathers to the CSA.

3.1.15.3 Adjudicated Father

The adjudicated father is the legal father. Include him in all eligibility determinations for the child if he is living in the household. Do not refer adjudicated fathers to the CSA.

3.1.16 Minor Parent

A minor parent is a minor who:

1. Is not the primary person, **and**
2. Is living in a household where the primary person is his/her LRR caretaker, **and**
3. Has his/her own child under his/her care.

3.2.0 Caretaker

A caretaker is anyone who is the child's:

1. Naturally or legally adoptive parent.
2. Stepfather or stepmother.
3. Natural full brother or sister, legally adopted, half- or stepbrother or sister.
4. Grandmother or grandfather, aunt or uncle, first cousin, nephew or niece, or any preceding generation denoted by the prefix grand-, great-, or great-great, and including those through adoption.
5. Spouse of any of the above even after the marriage ends by death, divorce, or separation.

3.2.1 Parental Rights Terminated

A parent whose parental rights have been legally terminated is not a caretaker.

3.2.2 Annulment

The annulment of a marriage removes all relationships established by the marriage except parent.

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3.2.3 Non-Legally Responsible Relative (NLRR) Caretaker

A non-legally responsible relative (NLRR) caretaker is a caretaker who has no legal responsibility for the minor or 18-year-old under his/her care.

3.3.0 Under the Care

A minor or dependent 18-year-old is under the care of a person when the person:

1. Is a caretaker, **and**
2. Exercises primary responsibility for the child or dependent 18-year-old's care and control, including making plans for him/her. Once a minor marries, s/he no longer can be under the care of a caretaker relative.

3.3.1 Legal Custody

Unless a court has transferred custody to someone else, assume that the child's parents have legal custody of their child.

If a child lives simultaneously with both an NLRR and an adult LRR, the child is under the care of the relative who is living with the child **and** who has legal custody of the child.

Example. Alice, age six, and her mother, Jane, live with Jane's parents. The grandparents have legal custody of Alice. Alice is considered to be under the care of her grandparents, not of her mother.

If a child lives with his/her parent(s), but legal custody has been transferred to someone else who is not living with them, the child (with one exception) is under the care of his/her parent(s). For the exception, see 3.3.2.

3.3.2 Joint Custody

When the natural or adoptive parents of a child do not live together, and have joint custody (through a mutually agreed upon arrangement or court order), act on the Family MA case as follows:

1. Determine if the agreement or court order awarding joint custody designates a "primary caretaker." A parent designated as the primary caretaker is the primary person.
2. If one parent is not designated, ask the parents to decide which one is the "primary caretaker." If they decide

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3.3.2 Joint Custody (cont.)

within the 30-day processing, act on the application as based on what they decided.

3. If no decision is made within the 30 days of the application date, review the parents' activities and responsibilities to determine which parent is the primary caretaker. Use the list below:
 - a. If the parents reside in different school districts, where does the child attend school? Who selected the school?
 - b. Who assists the child with homework or school-related tasks?
 - c. Are there tuition costs for the child's education? If so, who pays those costs?
 - d. If the child is enrolled in day care, who arranges for and pays these costs?
 - e. Who is responsible for taking the child to and from school and/or day care?
 - f. Which parent is listed as the contact for emergencies at the child's school or day care provider?
 - g. Who arranges medical and dental care for the child? Who selects the physician and dentist? Who maintains the child's medical records?
 - h. Who initiates decisions regarding the child's future?
 - i. Who responds to medical or law enforcement emergencies involving the child?
 - j. Who spends money on food or clothing for the child when the child visits the absent parent?
 - k. Who disciplines the child?
 - l. Who plays with the child and arranges for entertainment?
 - m. Are more of the child's toys, clothing, etc., kept at one parent's home than the other's?

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3.3.2 Joint Custody (cont.)

This list is not exclusive, and there may be situations where you find additional criteria to apply.

There are cases in which these questions may be answered positively for both parents. However, in reviewing parental responsibilities and roles, usually you will find one parent more often identified. Identify this parent as the primary person for determining eligibility.

Document your decision in the case record.

3.4.0 Essential Person

An AFDC-Related MA group is limited to:

1. A dependent child(ren), **and**
2. A natural parent, or adoptive parent(s), or **one** NLRR, **and**
3. Essential persons.

Only ES agency staff in positions or with authority higher than a first line ES Worker may approve, deny, and review any essential person designation. Reviews must occur at least every six months.

When a child is under the care of the spouse of a stepparent (when there's no eligible child-in-common) or NLRR, the other spouse can be included in the MA group only if s/he is an essential person. Only a caretaker who has a child under his/her care may designate an essential person.

To designate an essential person, the caretaker fills out the Designation of an AFDC-Related Essential Person form (35.3.4.0) and submits it to the ES agency. S/he must document the need for each essential person and that the person can provide the essential service.

Example. Carl, age 2, lives with his mother and stepfather. There is no child-in-common. Although both the mother and stepfather are caretakers (3.2.0), only the mother may have Carl under her care. To include the stepfather in the MA group, the mother must designate him as an essential person.

Carl next moves in with his aunt and uncle, and is under his aunt's care. To include the uncle in the MA group, the aunt must designate him as an essential person.

Final approval rests with the ES agency.

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3.4.0 Essential Person (cont.)

More than one person may be designated as an essential person in the same MA group, but only for different children. No one, however, may be an essential person in more than one MA group. Also, there can be no essential person if there is no born child, as in a Maternity Care case.

To be included in an AFDC-Related MA group as an essential person, the designated person must:

1. Be related to an AFDC-Related MA group member.
2. Be otherwise nonfinancially eligible, except that the essential person need not have a minor or dependent 18-year-old under his/her care.

Provide at least one of the following to another MA group member:

a. Child care that enables a caretaker to:

- (1) Work outside the home, full time (30 hours or more a week), for pay,
- (2) Receive training full time (30 hours or more a week),
- (3) Attend HS or GED classes full time (as defined by the school).

b. Care for anyone who is incapacitated (4.3.0).

3.5.0 Moves

When a child moves from the home of a caretaker who was eligible for AFDC-Related MA for that month to the home of another caretaker who applies for AFDC-Related MA in the same month, the new caretaker can be eligible as of the application date. The child, however, isn't eligible in the new household until the 1st of the month after the move.

3.6.0 Temporary Absence

A child and that child's caretaker can be in the same AFDC-Related or AFDC-MA group even when not living together if either is temporarily absent, provided:

1. The continuous absence is expected to be for no more than six months.

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3.6.0 Temporary Absence (cont.)

The ES agency may approve an extension of a child's temporary absence beyond six months when there is a written plan that demonstrates that the intent is to return the child to the caretaker's home, **and**

2. The child's care is not reimbursable by the Title IV-E program (Federal Foster Care), **and**
3. The caretaker continues to exercise responsibility for the care and control of the child.

A child may be temporarily absent when s/he is in non-Title IV-E foster care, Kinship Care, or a group home. Children who are inmates of public institutions or in an IMD for 30 or more days are not temporarily absent.

3.6.1 Exceptions

If the child is removed under a dispositional order meeting the following criteria, s/he is ineligible under the temporary absence policy.

For AFDC-MA, if the child's absence is the result of removing the child under a dispositional order which places the physical custody of the child outside of the home for three months or more. This includes an order for an indefinite period.

For AFDC-Related MA, if the child's absence is the result of removing the child under a dispositional order:

1. Placing the physical custody of the child outside of the home (for any duration), **and**
2. The caretaker doesn't participate in a permanency plan developed by the child welfare agency whose goal is the reunification of the family.

3.6.2 Non-Legally Responsible

Non-Legally Responsible Relatives (NLRR) of children